

By:

A. Hill

H. B. No. 2081

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and certification of landscape architects and landscape irrigators; amending Chapter 457, Acts of The 61st Legislature Regular Session, 1969, as amended (Article 249c, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 1, Chapter 457, Acts of the 61st Legislature Regular Session, 1969, as amended (Article 249c, Vernon's Texas Civil Statutes) is hereby amended to read as follows:

"Definitions. As used in this Act:

(a) "Landscape architect" means a person licensed to practice or teach landscape architecture in this state as provided herein.

(b) "Landscape architecture" means the performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall not include

1 any-services-or-functions-within-the-definition-of-the
2 praetice-of-engineering,-public-surveying-or-architeecture
3 as-defined-by-the-laws-of-this-state.

4 (c) "Board" means the Texas State Board of Landscape
5 Architects, as created and provided by the Act.

6 (d) "Person" means a natural person except where
7 otherwise specifically indicated.

8 (e) "Secretary" means the executive secretary of
9 the board as herein provided.

10 (f) "Landscape irrigation system" means any assembly
11 of component parts permanently installed with and for the
12 controlled distribution of water for the purpose of irriga-
13 ting any and all types of landscape vegetation, in any
14 location, or for the purpose of dust reduction or erosion
15 control.

16 (g) "Landscape irrigator" means a person, corporation,
17 partnership, or other legal entity duly licensed in this
18 state and under this Act, who has and shall maintain a
19 regular place of business, and who, by himself, or through
20 a person or persons in his employ, sells, designs, consults,
21 installs, maintains, alters, repairs, or services any
22 landscape irrigation system or yard sprinkler system
23 including connections in and to any private or public
24 potable water supply or water supply system.

25 Section 2. Section 2, Chapter 457, Acts of The 61st
26 Legislature Regular Session, 1969, as amended (Article 249c,
27 Vernon's Texas Civil Statutes) is hereby amended to read as follows:

1 "Exemptions. (a) The provisions of this Act do not
2 apply-to-ner affect laws relating to:

3 (1) A registered professional engineer, building
4 designer, land surveyor, nurseryman, and architect (except
5 landscape architect), respectively;

6 (2) Irrigation or yard sprinkler work done by a
7 property owner in a building or on premises owned or occu-
8 pied by him as his home;

9 (3) Irrigation or yard sprinkler work done by anyone
10 who is regularly employed as or acting as a maintenance man
11 incidental to and in consideration with the business in which
12 he is employed or engaged, and who does not engage in the
13 occupation of landscape irrigator or yard sprinkler contractor
14 or maintenance for the general public; construction, instal-
15 lation and maintenance work done upon the premises or
16 equipment of a railroad by an employee thereof who does not
17 engage in the occupation of landscape irrigator or yard
18 sprinkler construction or maintenance for the general public;
19 and landscape irrigation and yard sprinkler construction or
20 maintenancé and operation of its service lines or mains
21 and the installation, alteration, adjustment, repair, removal
22 and renovation of all types of appurtenances, equipment and
23 appliances;

24 (4) Any temporary or portable watering devices such as
25 garden hose, hose sprinklers, soaker hoses and agricultural
26 irrigation;

27 (5) Any agricultural irrigation, portable or solid set;

1 (6) Irrigation or yard sprinkler work or any other
2 services authorized by this Act done by a licensed profes-
3 sional engineer as defined by the laws of this state.

4 (b)--Every-agriculturist,-agronomist,-horticulturist,
5 forester,-gardner,-contract-engineer,-garden-or-lawn-care-
6 taker,-nurseryman,-grader-or-cultivator-of-land-and-any
7 person-making-plans-for-property-owned-by-himself-is
8 exempt-from-registration-under-the-provisions-of-this-Act,
9 provided-however,-none-of-the-foregoing-shall-use-the-title
10 or-term-"landscape-architect",-or-"landscape-irrigator",-
11 in-any-sign,-card,-listing,-advertisement-or-represent
12 himself-to-be-a-"landscape-architect",-or-a-"landscape
13 irrigator",-without-complying-with-the-provisions-of-this-Act-

14 Section 3. Section 3, Chapter 457, Acts of The 61st
15 Legislature Regular Session, 1969, as amended (Article 249c,
16 Vernon's Texas Civil Statutes) is hereby amended to read as
17 follows:

18 "There is hereby created a Texas State Board of Land-
19 scape Architects, which board shall consist of six members,
20 each of whom shall be a citizen of the United States and
21 a resident of this state. Members of the board and their
22 successors shall be appointed by the Governor with the
23 advice and consent of the Senate; three members shall be
24 individuals who have been actively engaged in the practice
25 of landscape architecture for a period of not less than 10
26 years prior to the date of their appointment, and three
27 members shall be individuals who have been actively engaged

1 in the practice of landscape irrigation who shall have had
2 respectively at least a minimum of 10 years, eight years
3 and six years experience as landscape irrigators.

4 The membership fo the board, except the initial members,
5 shall consist of three landscape architects and three land-
6 scape irrigators licensed under the provisions of this Act.
7 The three present members of the board shall serve and hold
8 office pursuant to the terms of their respective appointment:
9 one member for two years; one member for four years; and,
10 one member for six years from the date of their appointment
11 or until their successors are duly appointed and qualified.
12 The Governor shall appoint three additional members to the
13 board, who shall be landscape irrigators, on August 31, 1973,
14 to serve the following terms: one member for two years;
15 one member for four years; and one member for six years .
16 from the date of their appointment or until their succes-
17 sors are appointed and have qualified. Thereafter, at
18 the expiration of the term of each member first appointed,
19 his successor shall be appointed by the Governor of the state,
20 and he shall serve for a term of six years, or until his
21 successor is appointed and qualified. Before entering upon
22 the duties of his office, each member of the board shall
23 take and subscribe to the constitutional oath of office,
24 and the same shall be filed with the Secretary of State.
25 Upon the death, resignation, or removal of any member of
26 the board, the Governor shall appoint a successor for the
27 remainder of the term of such member who shall qualify in

1 the same manner as other members of the board. Any member
2 may be removed by the Governor for official misconduct,
3 gross inefficiency or moral unfitness.

4 Section 4. Section 4, Chapter 457, Acts of The 61st
5 Legislature Regular Session, 1969, as amended (Article 249c,
6 Vernon's Texas Civil Statutes) is hereby amended to read as
7 follows:

8 "Powers and duties of the board. (a) The board shall
9 promulgate procedural rules and regulations, consistent with
10 the provisions of this Act, to govern the conduct of its
11 business and proceedings, and setting standards governing
12 the connections to any public or private water supply by a
13 landscape irrigator. Notwithstanding any other provision
14 of this Act, the board shall not have any power or authority
15 to amend or enlarge upon any provision of this Act by rule
16 or regulation or by rule or regulation to change the mean-
17 ing in any manner whatsoever of any provision of this Act
18 or to promulgate any rule or regulation which is in any way
19 contrary to the underlying and fundamental purposes of this
20 Act or to make any rule or regulation which is unreasonable,
21 arbitrary, capricious, illegal, or unnecessary. At its
22 first meeting it shall select one of its members who shall
23 be a landscape architect as chairman of the board and he
24 shall serve as such chairman for such length of time not
25 exceeding his term as a member of the board, as the board
26 may subscribe. The chairman shall serve a term as prescribed
27 by the rules and regulations of the board and may be removed

1 for cause, his removal however, not to disqualify him
2 from continuing as a member of the board. Four members
3 of the board shall constitute a quorum for the transaction
4 of business. The board may adopt such reasonable rules
5 and regulations of the orderly conduct of its affairs as
6 it may deem necessary, and may from time to time amend such
7 rules and regulations.

8 (b) The first board appointed under the provisions
9 of this Act shall hold its first meeting within 30 days
10 after the members have been qualified. It shall hold at
11 least two regular meetings each year at such time and place
12 as the chairman may designate. It may hold special meetings
13 at such times and such places as a majority of the board
14 may deem necessary after giving reasonable notice thereof
15 to all members. The board is authorized to employ an execu-
16 tive secretary who shall have such duties and responsibi-
17 lities as the board may prescribe. The board is authorized
18 to employ such other persons as it may deem necessary
19 to administer the provisions of this Act. The salary of
20 the secretary and all other employees of the board shall
21 be fixed by the board and shall be paid out of the Texas
22 State Board of Landscape Architect's and Irrigator's Fund
23 as provided for in this Act. All salaries paid by the board
24 shall be reasonable, comparable in amounts to salary paid
25 by other departments of the state government to employees
26 engaged in similar capacities. All persons employed by
27 the board shall hold their positions at the pleasure of the

1 board. Each member of the board shall receive as compen-
2 sation for services performed in connection with his duties
3 as such member a sum equal to his expenses actually incurred,
4 ~~provided-however,-said-expenses-shall-not-exceed-the-sum~~
5 ~~of-\$75-per-day,~~ exclusive of travel expense. All payments
6 to board members or employees and all expenses of the ad-
7 ministration of this Act shall be paid out of the Texas
8 State Board of Landscape Architect's and Irrigator's Fund
9 provided for herein, and no part of the expense of administer-
10 ing this Act shall ever be charged against the general funds
11 of the State of Texas. The board shall arrange for such
12 suitable office space and equipment as it may deem necessary
13 and the rental for such office space and the cost of such
14 equipment shall be considered administration expenses,
15 provided however, that if space is available this agency.
16 shall be housed in one of the state office buildings of the
17 State of Texas and such compensation as may be required by
18 the administration of said office building shall be considered
19 as a part of the administration expense of this Act. The
20 board shall, as of August 31st of each year, after the
21 passage of this Act make a written report to the Governor
22 accounting for all receipts and disbursements under this Act.

23 Section 5. Section 5, Chapter 457, Acts of The 61st
24 Legislature Regular Session, 1969, as amended (Article 249c,
25 Vernon's Texas Civil Statutes) is hereby amended to read as
26 follows:

27 "Qualifications for registration. (a) From and

1 after the effective date of this Act, no person shall
2 represent himself or practice in any manner as a landscape
3 architect, as defined herein, unless such person shall be
4 licensed as provided herein. The following classes of
5 persons shall be qualified for registration and receive
6 a license:

7 (1) Any person over the age of ~~21~~ 18 years, not-
8 withstanding any other provisions of this Act, who submits
9 evidence to the board that prior to the passage of this Act,
10 that he ~~is-a-resident-of-Texas-and-a-citizen-of-the-United~~
11 ~~States,~~ possesses good moral character, and who has, for a
12 period of not less than three years, regularly represented
13 himself to be a landscape architect engaged in the practice
14 of landscape architecture, as defined in this Act, shall be
15 entitled to receive upon ~~taking~~ passing the required examin-
16 ation, hereinafter set out, a license to practice landscape
17 architecture as a landscape architect.

18 (2) Any person who is ~~a-resident-of-the-State-of~~
19 ~~Texas-and-a-citizen-of-the-United-States~~ over the age ~~21~~
20 18 years; possessing good moral character, and having or
21 holding a degree from a school whose study of landscape
22 architecture is approved by the board, or shall have had
23 not less than seven years actual experience in the office
24 of a licensed landscape architect, may apply for examination
25 and such application shall be accompanied by a fee ~~of~~-\$50
26 not to exceed \$100, as set by the board. The examination
27 ~~to-be-prepared~~ shall be ~~by-the-members-of-the-board-and~~

1 given by the board at-its-office-in-Austin,-Travis
2 County,-Texas, at or such other place as the board may
3 determine or designate, provided however, that one-third
4 of the board shall be present at each examination held
5 and provided further that not more than three examinations
6 may be held during any calendar year. The scope of the
7 examination and the methods of procedure shall be prescribed
8 by the board with special reference to the applicant's
9 ability which will insure safety to the public welfare and
10 the property rights. A candidate failing an examination
11 may apply for reexamination at the expiration of six months,
12 and-shall-be-reexamined-one-time-without-payment-of-additional
13 fee.

14 (b) No person shall engage in, work at, or conduct
15 the business of landscape irrigation, or yard sprinkler
16 construction or repairing in this state, and connect to
17 any private or public, raw or potable water supply system
18 unless such person is the holder of a valid certificate of
19 registration as provided for by this section. The board
20 shall issue certificates of registration to such persons
21 over the age of 18, of good moral character as have, by a
22 uniform, reasonable examination, shown themselves fit,
23 competent, and qualified to engage in the business, trade,
24 or calling of a landscape irrigator. -An-examination-for
25 landscape-irrigators-shall-be-given-at-the-same-time-and
26 place-and-in-the-same-manner-as-an-examination-for-landscape
27 architects-is-given-under-Subsection-(a)-of-this-section,

1 and-the-fee-for-such-examination-shall-be-\$50- All persons
2 holding a certificate of registration as a landscape irri-
3 gator shall be qualified and shall not be required to meet
4 any further laws of this state or any other state regula-
5 tory agency for the performance of connecting to any private,
6 public, raw or potable water supply system.

7 (c) Any landscape architect licensed under this Act
8 shall not have to be licensed as a landscape irrigator in
9 order to perform the necessary services for design, construc-
10 tion, repair and installation of any landscape irrigation
11 system.

12 Section 6. Section 7, Chapter 457, Acts of The 61st
13 Legislature Regular Session, 1969, as amended (Article 249c,
14 Vernon's Texas Civil Statutes) is hereby amended to read as
15 follows:

16 "Certificates of registration. All certificates of
17 registration shall expire on the 31st day of August of each
18 year, following their issuance or renewal and shall be-
19 come invalid on that date unless renewed. It shall be the
20 duty of the secretary of the board to notify every person
21 registered under this Act of that date expiration of his
22 certificate and the amount of the fee that shall be required
23 for its renewal for one year; such notice shall be mailed
24 at least one month in advance of the date of the expiration
25 of said certificate. Renewal may be effected at any time
26 during the month of July or August of each year by payment
27 of the fee as prescribed and set by the board. The fee

1 for a landscape architect's certificate shall be not less-
2 than-~~\$10-not-more-than-\$50~~ exceed \$100, as set by the Board.
3 The fee for a landscape irrigator's certificate shall be
4 not more than \$100. Failure on the part of any registrant
5 to renew his certificate annually, and by not later than
6 August 31st, as required above shall not deprive such person
7 of the right of renewal, but the fee to be paid for the re-
8 newal of a certificate after August 31st shall be increased
9 50 percent ~~10-percent-for-each-month-or-fraction-of-a-month-~~
10 that renewal payment is delayed; and provided further, that
11 if such failure to renew shall continue for more than one-
12 year- 60 days after the date of expiration of the registra-
13 tion certificate, the applicant must reapply for registra-
14 tion and must qualify under Section 5 of this Act. If fee
15 is not received 60 days after August 31, said license shall
16 be suspended and licensee shall have 30 days to request a
17 hearing before the board. After the hearing, the Board
18 shall review each suspension, and shall determine permanent
19 revocation.

20 Section 7. Section 7A, Chapter 457, Acts of The 61st
21 Legislature Regular Session, 1969, as amended (Article 249c,
22 Vernon's Texas Civil Statutes) is hereby amended to read as
23 follows:

24 "Expiration dates of certificates of registration;
25 proration of fee. The board by rule may adopt a system
26 under which certificates of registration expire on various
27 dates during the year. Renewals may be made at any time

1 during the two months prior to the expiration date, and
2 renewal fees paid after the expiration date shall be in-
3 creased ~~10-percent-for-each-month-or-fraction-of-a-month-~~
4 ~~that-renewal-payment-is-delayed~~ 50 percent that renewal
5 payment is delayed. For the year in which the expiration
6 date is changed, registration fees payable on August 31 shall
7 be prorated on a monthly basis so that each registrant
8 shall pay only that portion of the registration fee which
9 is allocable to the number of months during which the
10 registration is valid. On renewal of the registration on
11 the new expiration date, the total of the registration fee
12 is payable.

13 Section 8. Section 8, Chapter 457, Acts of The 61st
14 Legislature Regular Session, 1969, as amended (Article 249c,
15 Vernon's Texas Civil Statutes) is hereby amended to read as
16 follows:

17 "Revocation and reissuance of certificates. (a) The
18 board has the power to revoke the certificate of registra-
19 tion of any registrant who is charged with and found guilty
20 of:

21 (1) Violations of provisions of this Act;

22 (2) The practice of any fraud or deceit in obtaining
23 a certificate of registration;

24 (3) Any gross negligence, incompetency, or miscon-
25 duct in the practice of landscape architecture or irrigation;

26 (4) Holding himself out to the public or any member
27 thereof as an engineer or making use of the words "engineer,"

1 "engineered," "professional engineer," "P.E.," or any other
2 terms tending to create the impression that such registrant
3 is authorized to practice engineering or any other profes-
4 sion unless he is licensed under provisions of Texas
5 Engineering Practice Act or the other applicable licensing
6 law of this state.

7 (5) Holding himself out to the public or any member
8 thereof as a surveyor or making use of the words "surveyor,"
9 "surveyed," "registered public surveyor," "R.P.S.," or
10 any other terms tending to create the impression that such
11 registrant is authorized to practice surveying or any other
12 profession unless he is licensed under the provision of the
13 Registered Public Surveyors Act or the other applicable
14 licensing law of this state.

15 (b) In determining the truth of any such charges the
16 board shall proceed upon sworn information furnished it by
17 any reliable resident of this state; such information shall
18 be in writing and shall be duly verified by the person
19 familiar with the facts therein charged, and three copies
20 of the same shall be filed with the secretary of the board.
21 Upon receipt of such information the board, if it deems
22 the information sufficient to support further action on its
23 part, shall make an order setting the charges therein con-
24 tained for hearing at a specified time and place, and the
25 secretary of the board shall cause a copy of the board's
26 order and of the information contained in the written charges
27 to be served upon the accused at least 30 days before the

1 date appointed in the order for the hearing. The accused
2 may appear in person or by counsel or both, at the time
3 and place named in the order and make his defense to the
4 same. The board shall have the power, through its chair-
5 man or secretary, to administer oaths and compel the
6 attendance of witnesses before it as in civil cases in the
7 district court, by subpoena issued over the signature of
8 the secretary and the seal of the board.

9 Any person who may feel himself aggrieved by reason
10 of the revocation of his certificate of registration of
11 the board, as hereinabove authorized, shall have the right
12 to file suit within 30 days within receiving notice of the
13 board's order revoking his certificate of registration in
14 the district in the county of his residence of the county
15 in which the alleged events relied upon, and grounds for
16 revocation, took place, to annul or vacate the order of
17 the board revoking the certificates of registration; said
18 suit to be filed against the board as defendant, and
19 service of process may be had upon its chairman or secretary.
20 The only issues to be tried in such cause shall be whether
21 such person has been guilty as originally found by the
22 board, which issue shall be trial de novo, as that term
23 is commonly used in connection with an appeal from the
24 justice of the peace court to the county court, and
25 the substantial evidence rule shall not apply.

26 Section 9. Section 9, Chapter 457, Acts of The 61st
27 Legislature Regular Session, 1969, as amended (Article 249c,

1 Vernon's Texas Civil Statutes) is hereby amended to read as follows:

2 "Violations and penalties. After the effective date
3 of this Act any person who represents himself to be a land-
4 scape architect or irrigator in this state without being
5 registered or exempted in accordance with the provisions
6 of this Act, or any person presenting or attempting to use
7 as his own, the certificate of registration or the seal
8 of another, or any person who shall give any false or
9 forged evidence of any kind to the board or to any member
10 thereof in obtaining or assisting in attaining for another
11 a certificate of registration, or any person who shall
12 violate any of the provisions of this Act, shall be fined
13 not less than \$100 nor more than \$500, or be confined in
14 jail for a period not to exceed three months, or both.
15 Each day of such violation shall be a separate offense..

16 The attorney general or his assistants shall act as
17 legal advisor of the board and shall render such legal
18 assistance as may be necessary in enforcing and making
19 effective the provisions of this Act, provided that this
20 shall not relieve the local prosecuting officers of any
21 of their duties under the law as such.

22 Section 10. Section 10, Chapter 457, Acts of The 61st
23 Legislature Regular Session, 1969, as amended (Article 249c,
24 Vernon's Texas Civil Statutes) is hereby amended to read as
25 follows:

26 "Injunctions. After the effective dates of this
27 Act, any person practicing landscape architecture or

1 landscape irrigation who is not licensed by this board,
2 as set out in this Act, may be enjoined and restrained by
3 a District Court from practicing landscape architecture
4 or landscape irrigation upon petition of the board.

5 Section 11. Section 11, Chapter 457, Acts of The 61st
6 Legislature Regular Session, 1969, as amended (Article 249c,
7 Vernon's Texas Civil Statutes) is hereby amended to read as
8 follows:

9 "Fees. Every landscape architect shall pay an annual
10 fee as set by the board, ~~but-in-no-event-to-be-less-than-~~
11 ~~\$10-not-more-than-\$50,~~ not to exceed \$100, as provided in
12 Section 7 hereof. Every landscape irrigator shall pay
13 an annual fee as set by the board, but in no event shall
14 it be more than \$100. The fee shall be due and payable
15 on or before August 31 of each calendar year and shall
16 become delinquent on September 1 of each year."

17 All sums of money paid to the board under the pro-
18 visions of this Act, shall be deposited in the treasury
19 of the State of Texas, and placed in a special fund to
20 be known as the "Texas State Board of Landscape Architect's
21 and Irrigator's Fund." All expenditures for the administra-
22 tion and enforcement of this Act shall be in the amounts and
23 for the purposes fixed by the general appropriation bill.

24 Section 12. Section 12, Chapter 457, Acts of The 61st
25 Legislature Regular Session, 1969, as amended (Article 249c,
26 Vernon's Texas Civil Statutes) is hereby amended to read as
27 follows:

1 "Severability. If any article, section, subsection,
2 sentence, clause or phrase of this Act is for any purpose
3 or reason held to be unconstitutional, such invalid
4 portion shall not affect the validity of the remaining
5 portions of this Act. The Legislature hereby declares
6 that it would have passed the valid portions of the Act
7 irrespective of the fact that any one or more portions
8 thereof be declared unconstitutional.

9 Section 13. Section 13, Chapter 457, Acts of The 61st
10 Legislature Regular Session, 1969, as amended (Article 249c,
11 Vernon's Texas Civil Statutes) is hereby amended to read as
12 follows:

13 "Repeal of conflicting legislation with proviso.
14 All laws or parts of laws in conflict with the provisions
15 of this Act shall be, and the same are hereby repealed,
16 provided however, that this Act shall not be construed
17 as repealing or amending any laws affecting or regulating
18 any other profession.

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

5/11/77
(date)

Sir:

We, your COMMITTEE ON STATE AFFAIRS, to whom was referred H.B. 2081
have had the same under consideration and beg to report back with the recommendation that it (measure)

- ~~() do pass, without amendment.~~
~~() do pass, with amendment(s):~~
 (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on 4-26-77 and is attached as part of this report.
(date)

Author's fiscal statement attached.

The Committee recommends that this measure be placed on the (~~Consent~~ / Consent) Calendar.

This measure (X) proposes new law.
~~() amends existing law.~~

~~House Sponsor of Senate Measure~~

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Uher	✓			
Hoestenbach				✓
Brown	✓			
Simpson	✓			
Blythe		✓		
Bock				✓
Ceverha	✓			
Edwards	✓			
Florence	✓			
Green, G.		✓		
Henderson				✓
McFarland	✓			
Stubbeman	✓			
Wallace				✓
Weddington			✓	

Total: 8 aye
2 nay
1 present, not voting
4 absent

D.R. Uher
CHAIRMAN
Reynolds
COMMITTEE COORDINATOR

HOUSE COMMITTEE ON STATE AFFAIRS

BILL ANALYSIS

Background Information:

Article 249c, governing the regulation of the practice of landscape architecture, was enacted by the 61st Legislature, and amended by the 63rd Legislature. Since that time some questions have arisen regarding the distinction between the practice of landscape irrigation and the practice of plumbing. The Attorney General, in Opinion #H-960, stated that under existing law, plumbers are not authorized to install sprinkler systems or yard irrigation systems. Other needed changes in Article 249c are conforming certain of its provisions to federal law (such as the minimum age required to obtain a license), and increasing the revenue available to the Texas State Board of Landscape Architecture.

What the Bill Proposes:

This bill proposes new law and amends existing statutes in order to address some of the problems just mentioned. C.S.H.B. 2081 lowers the minimum age at which a person may obtain a license, raises application fees, shortens the license renewal grace period, makes landscape irrigators exempt from regulations and requirements of other regulatory agencies, and allows plumbers to install sprinkler systems when such work is incidental to their regular business.

Section by Section Analysis:

Section 1: Amends Subsection (a), Section 2, Article 249c by adding subdivision (7), which states that this Act does not apply to irrigation or yard sprinkler work done by a master plumber incidental to his plumbing business.

Section 2: Amends Subsection (b), Section 4, Article 249c to increase from \$25 to \$75 the per diem rate payable to board members.

Section 3: Amends Subsection (a), Section 5, Article 249c by changing licensure qualifications in the following manner:

- changing the minimum age from 21 to 18
- deleting residency and citizenship requirements
- requiring passing (instead of merely taking) the examination

and by making these addition changes:

- raising application fee from \$50 to a maximum of \$100
- removing the stipulation that the board prepare the exam, and that it be given at the board office in Austin
- removing the provision that applicants who fail the exam can be re-examined once without paying an additional fee

Also amends Subsection (b), Section 5, Article 249c by providing that registered landscape irrigators do not have to qualify in any other manner or comply with rules of any other regulatory agencies of this state in order to be qualified to do landscape irrigation. Strikes the provision stating that examinations for a landscape irrigator's license be prepared by the board, be given in Austin, and that the fee for such license is \$50.

Section 4: Amends Sections 7, 7A, 9, 10 and 12, Article 249c in the following manner:

- changes the fee structure for a landscape architect's certificate from \$10-\$50 to a maximum of \$100 to be set by the board

- changes the penalty structure for failure to renew such a certificate by August 31st of each year

- decreases the grace period after the renewal deadline from one year to 60 days; failure to renew within this period forfeits right of re-licensure without re-examination and results in suspension which cannot be lifted without a hearing before the board

- makes "practice as a landscape architect or irrigator" by an unregistered person a violation of this Act with a penalty of \$100-\$500 and/or three months in jail

- adds a proviso to the Repealer Clause which repeals any conflicting laws which would require licensed landscape irrigators to meet any other regulatory agency rules or regulations.

Section 5: Amends Article 249c by adding a new Section 9A authorizing district courts, upon petition of the board, to enjoin and restrain unlicensed persons who practice landscape architecture or irrigation.

Section 6: Emergency Clause.

COMPARISON OF H.B. 2081 AND C.S.H.B. 2081:

H.B. 2081 and C.S.H.B. 2081 contain the same basic provisions; the difference in their lengths is accounted for by the method of inserting a new section dealing with injunction powers. H.B. 2081 inserts this as Section 10 and then proceeds to renumber existing Sections 10 through 12 as Sections 11 through 13. C.S.H.B. 2081 merely inserts the injunction provision as a new Section 9A, thereby avoiding the re-printing and re-numbering process.

The substantive difference between the two bills is that C.S.H.B. 2081 includes a provision authorizing master plumbers to do yard sprinkler work when it is incidental to their regular plumbing business (Section 1). H.B. 2081 does not contain this provision.

SUMMARY OF COMMITTEE ACTION:

H.B. 2081 was referred directly to subcommittee on April 13, 1977. On May 2, 1977 the Subcommittee considered the measure and voted to report back to Committee with the recommendation that it do pass in the form of C.S.H.B. 2081.

The Committee voted, on May 11, 1977 by a record vote of 8 ayes, 2 nay, 1 present not voting and 4 absent, to report back to the House with the recommendation that it do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure. The Committee also voted to recommend that the measure be placed on the Consent Calendar.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 4, 1977

Honorable D. R. "Tom" Uher, Chairman
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: House Bill No. 2081
By: Hill of Travis

Sir:

In response to your request pursuant to House Rule V, Section 28, this office the fiscal implications of House Bill No. 2081 (relating to the regulation and certification of Landscape Architects and Landscape Irrigators) to be as follows:

Under present law, a candidate failing an examination may apply for reexamination at the expiration of six months and be reexamined one time without payment of additional fee. The result is that the board must pay the cost of such examination. The bill would eliminate the provision of the present law which permits the second examination to be free to the applicant with the potential savings, should the bill be enacted, reflected in the table below.

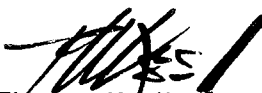
The bill would also increase the maximum fee rate which may be set by the board. There is no indication that the board would increase the fee rate immediately upon passage of the bill.

The probable savings from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Estimated Savings to Fund # 069</u>
1978	\$ 2,500
1979	3,000
1980	3,500
1981	4,000
1982	4,500

Similar annual savings would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to the state or units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 12, 1977

Honorable D. R. "Tom" Uher, Chairman
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 2081
By: Stubbeman

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of Committee Substitute for House Bill No. 2081 (relating to the regulation and certification of Landscape Architects and Landscape Irrigators) to be as follows:

Under present law, a candidate failing an examination may apply for reexamination at the expiration of six months and be reexamined one time without payment of additional fee. The result is that the board must pay the cost of such examination. The bill would eliminate the provision of the present law which permits the second examination to be free to the applicant with the potential savings, should the bill be enacted, reflected in the table below.

The bill would also increase the maximum fee rate which may be set by the board. There is no indication that the board would increase the fee rate immediately upon passage of the bill.

The probable savings from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Estimated Savings to Fund #069</u>
1978	\$ 2,500
1979	3,000
1980	3,500
1981	4,000
1982	4,500

Similar annual savings would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to the state or units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

MAY 20 1977

Date
Read and Adopted

Betty Mursey

By Hill of Travis

Chief Clerk
House of Representatives

H.B. No. 2081

Substitute the following for H.B. No. 2081

By

Stubbeman

C.S.H.B. No. 2081

A BILL TO BE ENTITLED

AN ACT

1
2 relating to regulation and certification of landscape architects
3 and landscape irrigators; amending Sections 2(a), 4(b), 5(a) and
4 (b), 7, 7A, 9, 10, and 12 of, and adding Section 9A to, Chapter
5 457, Acts of the 61st Legislature, Regular Session, 1969, as
6 amended (Article 249c, Vernon's Texas Civil Statutes).

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 Section 1. Subsection (a), Section 2, Chapter 457, Acts of
9 the 61st Legislature, Regular Session, 1969, as amended (Article
10 249c, Vernon's Texas Civil Statutes), is amended to read as fol-
11 lows:

12 "(a) The provisions of this Act do not apply to nor affect
13 laws relating to:"

14 "(1) A registered professional engineer, building designer,
15 land surveyor, nurseryman, and architect (except landscape archi-
16 tect), respectively;

17 "(2) Irrigation or yard sprinkler work done by a property
18 owner in a building or on premises owned or occupied by him as his
19 home;

20 "(3) Irrigation or yard sprinkler work done by anyone who is
21 regularly employed as or acting as a maintenance man incidental to
22 and in consideration with the business in which he is employed or
23 engaged, and who does not engage in the occupation of landscape
24 irrigator or yard sprinkler contractor or maintenance for the gen-

1 eral public; construction, installation and maintenance work done
2 upon the premises or equipment of a railroad by an employee thereof
3 who does not engage in the occupation of landscape irrigator or
4 yard sprinkler construction or maintenance for the general public;
5 and landscape irrigation and yard sprinkler construction or maintenance done by persons engaged by any public service company in the
6 laying, maintenance and operation of its service lines or mains and
7 the installation, alteration, adjustment, repair, removal and
8 renovation of all types of appurtenances, equipment and appliances;

9
10 "(4) Any temporary or portable watering devices such as
11 garden hose, hose sprinklers, soaker hoses and agricultural irrigation;
12

13 "(5) Any agricultural irrigation, portable or solid set;

14 "(6) Irrigation or yard sprinkler work or any other services
15 authorized by this Act done by a licensed professional engineer as
16 defined by the laws of this state; or

17 "(7) Irrigation or yard sprinkler work done by a master
18 plumber, as defined by the laws of this state, incidental to his
19 regular business of plumbing."

20 Sec. 2. Subsection (b), Section 4, Chapter 457, Acts of the
21 61st Legislature, Regular Session, 1969, as amended (Article 249c,
22 Vernon's Texas Civil Statutes), is amended to read as follows:

23 "(b) The first board appointed under the provisions of this
24 Act shall hold its first meeting within 30 days after the members
25 have been qualified. It shall hold at least two regular meetings
26 each year at such time and place as the chairman may designate. It
27 may hold special meetings at such times and at such places as a

1 majority of the board may deem necessary after giving reasonable
2 notice thereof to all members. The board is authorized to employ
3 an executive secretary who shall have such duties and responsibili-
4 ties as the board may prescribe. The board is authorized to employ
5 such other persons as it may deem necessary to administer the
6 provisions of this Act. The salary of the secretary and all other
7 employees of the board shall be fixed by the board and shall be
8 paid out of the Texas State Board of Landscape Architect's and
9 Irrigator's Fund as provided for in this Act. All salaries paid by
10 the board shall be reasonable, comparable in amounts to salary paid
11 by other departments of the state government to employees engaged
12 in similar capacities. All persons employed by the board shall
13 hold their positions at the pleasure of the board. Each member of
14 the board shall receive as compensation for services performed in
15 connection with his duties as such member a sum equal to his
16 expenses actually incurred, provided however, said expenses shall
17 not exceed the sum of \$75 [~~\$25~~] per day, exclusive of travel
18 expense. All payments to board members or employees and all
19 expenses of the administration of this Act shall be paid out of the
20 Texas State Board of Landscape Architect's and Irrigator's Fund
21 provided for herein, and no part of the expense of administering
22 this Act shall ever be charged against the general funds of the
23 State of Texas. The board shall arrange for such suitable office
24 space and equipment as it may deem necessary and the rental for
25 such office space and the cost of such equipment shall be consid-
26 ered administration expenses, provided however, that if space is
27 available this agency shall be housed in one of the state office

buildings of the State of Texas and such compensation as may be required by the administration of said office building shall be considered as a part of the administration expense of this Act. The board shall, as of August 31st of each year, after the passage of this Act make a written report to the Governor accounting for all receipts and disbursements under this Act."

Sec. 3. Subsections (a) and (b), Section 5, Chapter 457, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 249c, Vernon's Texas Civil Statutes), are amended to read as follows:

"(a) From and after the effective date of this Act, no person shall represent himself or practice in any manner as a landscape architect, as defined herein, unless such person shall be licensed as provided herein. The following classes of persons shall be qualified for registration and receive a license:

"(1) Any person over the age of 18 [21] years, notwithstanding any other provisions of this Act, who submits evidence to the board that prior to the passage of this Act, that he ~~[is a resident of Texas and a citizen of the United States]~~ possesses good moral character, and who has, for a period of not less than three years, regularly represented himself to be a landscape architect engaged in the practice of landscape architecture, as defined in this Act, shall be entitled to receive, upon passing ~~[taking]~~ the required examination, hereinafter set out, a license to practice landscape architecture as a landscape architect.

"(2) Any person who is ~~[a resident of the State of Texas and a citizen of the United States]~~ over the age 18 [21] years, pos-

1 sessing good moral character, and having or holding a degree from a
2 school whose study of landscape architecture is approved by the
3 board, or shall have had not less than seven years actual experi-
4 ence in the office of a licensed landscape architect, may apply for
5 examination and such application shall be accompanied by a fee not
6 to exceed \$100, as set by the board ~~[of \$50]~~. The examination
7 shall be ~~[to be prepared by the members of the board and]~~ given by
8 the board at ~~[its office in Austin, Travis County, Texas, or]~~ such
9 ~~[other]~~ place as the board may determine or designate, provided
10 however, that one-third of the board shall be present at each
11 examination held and provided further that not more than three
12 examinations may be held during any calendar year. The scope of
13 the examination and the methods of procedure shall be prescribed by
14 the board with special reference to the applicant's ability which
15 will insure safety to the public welfare and the property rights.
16 A candidate failing an examination may apply for reexamination at
17 the expiration of six months~~[, and shall be reexamined one time~~
18 ~~without payment of additional fee]~~.

19 "(b) No person shall engage in, work at, or conduct the
20 business of landscape irrigation, or yard sprinkler construction or
21 repairing in this state, and connect to any private or public, raw
22 or potable water supply system unless such person is the holder of
23 a valid certificate of registration as provided for by this
24 section. The board shall issue certificates of registration to
25 such persons over the age of 18 and of good moral character as
26 have, by a uniform, reasonable examination, shown themselves fit,
27 competent, and qualified to engage in the business, trade, or call-

ing of a landscape irrigator. A person holding a certificate of registration as a landscape irrigator is qualified and is not required to comply with other regulatory laws of this state or with rules of another regulatory agency for connecting a landscape irrigation system to a private, public, raw, or potable water supply water system ~~[An examination for landscape irrigators shall be given at the same time and place and in the same manner as an examination for landscape architects is given under Subsection (a) of this section, and the fee for such examination shall be \$50].~~"

Sec. 4. Sections 7, 7A, 9, 10, and 12, Chapter 457, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 249c, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 7. CERTIFICATES OF REGISTRATION. All certificates of registration shall expire on the 31st day of August of each year, following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this Act of that date of expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of July or August of each year by payment of the fee as prescribed and set by the board. The fee for a landscape architect's certificate shall ~~[be]~~ not exceed \$100, as set by the board ~~[less than \$10 nor more than \$50]~~. The fee for a landscape irrigator's certificate shall be not more than \$100. Failure

1 on the part of any registrant to renew his certificate annually,
2 and by not later than August 31st, as required above shall not
3 deprive such person of the right of renewal, but the fee to be paid
4 for the renewal of a certificate after August 31st shall be 50 per-
5 cent larger than the fee paid for renewal of a certificate before
6 August 31st [~~increased 10 percent for each month or fraction of a~~
7 ~~month that renewal payment is delayed~~]; and provided further, that
8 if such failure to renew shall continue for more than 60 days [~~one~~
9 ~~year~~] after the date of expiration of the registration certificate,
10 the applicant must reapply for registration and must qualify under
11 Section 5 of this Act. If the fee is not received within 60 days
12 after August 31st, the license is suspended, and the licensee has
13 30 days to request a hearing before the board. After the hearing,
14 the board shall review the suspension and shall determine whether
15 permanent revocation is necessary. All renewal certificates shall
16 carry the same registration number as the original certificate.

17 "Section 7A. EXPIRATION DATES OF CERTIFICATES OF REGISTRA-
18 TION; PROPATION OF FEE. The board by rule may adopt a system under
19 which certificates of registration expire on various dates during
20 the year. Renewals may be made at any time during the two months
21 prior to the expiration date, and renewal fees paid after the
22 expiration date shall be 50 percent larger than the renewal fee
23 paid before the expiration date [~~increased 10 percent for each~~
24 ~~month or fraction of a month that renewal payment is delayed~~]. For
25 the year in which the expiration date is changed, registration fees
26 payable on August 31 shall be prorated on a monthly basis so that
27 each registrant shall pay only that portion of the registration fee

which is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total of the registration fee is payable."

"Section 9. VIOLATIONS AND PENALTIES. After the effective date of this Act any person who represents himself to be, or practices as a landscape architect or irrigator in this state without being registered or exempted in accordance with the provisions of this Act, or any person presenting or attempting to use as his own, the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or assisting in attaining for another a certificate of registration, or any person who shall violate any of the provisions of this Act, shall be fined not less than \$100 nor more than \$500, or be confined in jail for a period not to exceed three months, or both. Each day of such violation shall be a separate offense.

"The attorney general or his assistants shall act as legal advisor of the board and shall render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act, provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such.

"Section 10. FEES. Every landscape architect shall pay an annual fee, not to exceed \$100, as set by the board[~~but in no event to be less than \$10 nor more than \$50,~~] as provided in Section 7 hereof. Every landscape irrigator shall pay an annual fee as set by the board, but in no event shall it be more than \$100. The fee shall be due and payable on or before August 31 of

1 each calendar year and shall become delinquent on September 1 of
2 each year.

3 "All sums of money paid to the board under the provisions of
4 this Act, shall be deposited in the treasury of the State of Texas,
5 and placed in a special fund to be known as the 'Texas State Board
6 of Landscape Architect's and Irrigator's Fund.' All expenditures
7 for the administration and enforcement of this Act shall be in the
8 amounts and for the purposes fixed by the general appropriation
9 bill."

10 "Section 12. REPEAL OF CONFLICTING LEGISLATION WITH PROVISIO.
11 All laws or parts of laws in conflict with the provisions of this
12 Act shall be, and the same are hereby repealed, provided however,
13 that this Act shall not be construed as repealing or amending any
14 laws affecting or regulating any other profession except as neces-
15 sary to allow a landscape irrigator licensed under this Act to con-
16 nect a landscape irrigation system to a public, private, raw, or
17 potable water supply system."

18 Sec. 5. Chapter 457, Acts of the 61st Legislature, Regular
19 Session, 1969, as amended (Article 249c, Vernon's Texas Civil Stat-
20 utes), is amended by adding Section 9A to read as follows:

21 "Section 9A. INJUNCTION. A person practicing landscape
22 architecture or irrigation who is not licensed by the board under
23 this Act may be enjoined and restrained, on petition of the board,
24 by a district court from practicing landscape architecture or irri-
25 gation."

26 Sec. 6. The importance of this legislation and the crowded
27 condition of the calendars in both houses create an emergency and

C.S.H.B. No. 2081

1 an imperative public necessity that the constitutional rule
2 requiring bills to be read on three several days in each house be
3 suspended, and this rule is hereby suspended, and that this Act
4 take effect and be in force from and after its passage, and it is
5 so enacted.

*Local & County
Calendar Committee Amendment*

By: Mayer ①

House Committee Amendment
To C.S.H.B. 2081

Amend C.S.H.B. 2081 by adding the following after the word "system" on line 8 of page 6:

" , except that a regulatory agency of any political subdivision of the State may require landscape irrigators to comply with any reasonable inspection requirements and pay any reasonable inspection fees imposed by such political subdivision with respect to work performed by landscape irrigators within the jurisdiction of the political subdivision."

MAY 20 1977
Date
Read and Adopted

Betty M. Murrey

Chief Clerk
House of Representatives

COMMITTEE/FLOOR REPORT FORM

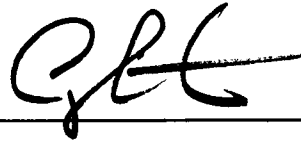
Austin, Texas

May 25, 1977

Honorable William P. Hobby
President of the Senate

Sir:

We, your Committee on Economic Development to which was referred
H B. No. 2081 have had the same under consideration, and I am instructed to report it back to the Senate
with the recommendation that it do _____ pass _____ and be printed.



Chairman

IF THIS FORM IS TO BE USED AS A FLOOR REPORT, IT IS NECESSARY FOR A MAJORITY OF THE COMMITTEE MEMBERS TO SIGN IT. Paper clip the original and one copy of this form to the original bill and retain one copy for your file.

HOUSE ENGROSSMENT

2nd. Printing

By Hill of Travis

H.B. No. 2081

A BILL TO BE ENTITLED

AN ACT

relating to regulation and certification of landscape architects and landscape irrigators; amending Sections 2(a), 4(b), 5(a) and (b), 7, 7A, 9, 10, and 12 of, and adding Section 9A to, Chapter 457, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 249c, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Subsection (a), Section 2, Chapter 457, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 249c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) The provisions of this Act do not apply to nor affect laws relating to:

"(1) A registered professional engineer, building designer, land surveyor, nurseryman, and architect (except landscape architect), respectively;

"(2) Irrigation or yard sprinkler work done by a property owner in a building or on premises owned or occupied by him as his home;

"(3) Irrigation or yard sprinkler work done by anyone who is regularly employed as or acting as a maintenance man incidental to and in consideration with the business in which he is employed or engaged, and who does not engage in the occupation of landscape irrigator or yard sprinkler contractor or maintenance for the

1 general public; construction, installation and maintenance work
2 done upon the premises or equipment of a railroad by an employee
3 thereof who does not engage in the occupation of landscape
4 irrigator or yard sprinkler construction or maintenance for the
5 general public; and landscape irrigation and yard sprinkler
6 construction or maintenance done by persons engaged by any public
7 service company in the laying, maintenance and operation of its
8 service lines or mains and the installation, alteration,
9 adjustment, repair, removal and renovation of all types of
10 appurtenances, equipment and appliances;

11 "(4) Any temporary or portable watering devices such as
12 garden hose, hose sprinklers, soaker hoses and agricultural
13 irrigation;

14 "(5) Any agricultural irrigation, portable or solid set;

15 "(6) Irrigation or yard sprinkler work or any other services
16 authorized by this Act done by a licensed professional engineer as
17 defined by the laws of this state; or

18 "(7) Irrigation or yard sprinkler work done by a master
19 plumber, as defined by the laws of this state, incidental to his
20 regular business of plumbing."

21 Sec. 2. Subsection (b), Section 4, Chapter 457, Acts of the
22 61st Legislature, Regular Session, 1969, as amended (Article 249c,
23 Vernon's Texas Civil Statutes), is amended to read as follows:

24 "(b) The first board appointed under the provisions of this
25 Act shall hold its first meeting within 30 days after the members
26 have been qualified. It shall hold at least two regular meetings
27 each year at such time and place as the chairman may designate. It

1 may hold special meetings at such times and at such places as a
 2 majority of the board may deem necessary after giving reasonable
 3 notice thereof to all members. The board is authorized to employ
 4 an executive secretary who shall have such duties and
 5 responsibilities as the board may prescribe. The board is
 6 authorized to employ such other persons as it may deem necessary to
 7 administer the provisions of this Act. The salary of the secretary
 8 and all other employees of the board shall be fixed by the board
 9 and shall be paid out of the Texas State Board of Landscape
 10 Architect's and Irrigator's Fund as provided for in this Act. All
 11 salaries paid by the board shall be reasonable, comparable in
 12 amounts to salary paid by other departments of the state government
 13 to employees engaged in similar capacities. All persons employed
 14 by the board shall hold their positions at the pleasure of the
 15 board. Each member of the board shall receive as compensation for
 16 services performed in connection with his duties as such member a
 17 sum equal to his expenses actually incurred, provided however, said
 18 expenses shall not exceed the sum of \$75 ~~100~~ per day, exclusive
 19 of travel expense. All payments to board members or employees and
 20 all expenses of the administration of this Act shall be paid out of
 21 the Texas State Board of Landscape Architect's and Irrigator's Fund
 22 provided for herein, and no part of the expense of administering
 23 this Act shall ever be charged against the general funds of the
 24 State of Texas. The board shall arrange for such suitable office
 25 space and equipment as it may deem necessary and the rental for
 26 such office space and the cost of such equipment shall be
 27 considered administration expenses, provided however, that if space

1 is available this agency shall be housed in one of the state office
2 buildings of the State of Texas and such compensation as may be
3 required by the administration of said office building shall be
4 considered as a part of the administration expense of this Act.
5 The board shall, as of August 31st of each year, after the passage
6 of this Act make a written report to the Governor accounting for
7 all receipts and disbursements under this Act."

8 Sec. 3. Subsections (a) and (b), Section 5, Chapter 457,
9 Acts of the 61st Legislature, Regular Session, 1969, as amended
10 (Article 249c, Vernon's Texas Civil Statutes), are amended to read
11 as follows:

12 "(a) From and after the effective date of this Act, no
13 person shall represent himself or practice in any manner as a
14 landscape architect, as defined herein, unless such person shall be
15 licensed as provided herein. The following classes of persons
16 shall be qualified for registration and receive a license:

17 "(1) Any person over the age of 18 [24] years,
18 notwithstanding any other provisions of this Act, who submits
19 evidence to the board that prior to the passage of this Act, that
20 he ~~[is a resident of Texas and a citizen of the United States]~~
21 possesses good moral character, and who has, for a period of not
22 less than three years, regularly represented himself to be a
23 landscape architect engaged in the practice of landscape
24 architecture, as defined in this Act, shall be entitled to receive,
25 upon ~~passing~~ [taking] the required examination, hereinafter set
26 out, a license to practice landscape architecture as a landscape
27 architect.

1 "(2) Any person who is ~~[a resident of the State of Texas and~~
2 ~~a citizen of the United States]~~ over the age 18 ~~[24]~~ years,
3 possessing good moral character, and having or holding a degree
4 from a school whose study of landscape architecture is approved by
5 the board, or shall have had not less than seven years actual
6 experience in the office of a licensed landscape architect, may
7 apply for examination and such application shall be accompanied by
8 a fee not to exceed \$100, as set by the board ~~[of \$50]~~. The
9 examination shall be ~~[to be prepared by the members of the board~~
10 ~~and]~~ given by the board at ~~[its office in Austin, Travis County,~~
11 ~~Texas, or]~~ such ~~[other]~~ place as the board may determine or
12 designate, provided however, that one-third of the board shall be
13 present at each examination held and provided further that not more
14 than three examinations may be held during any calendar year. The
15 scope of the examination and the methods of procedure shall be
16 prescribed by the board with special reference to the applicant's
17 ability which will insure safety to the public welfare and the
18 property rights. A candidate failing an examination may apply for
19 reexamination at the expiration of six months~~[, and shall be~~
20 ~~reexamined one time without payment of additional fee]~~.

21 "(b) No person shall engage in, work at, or conduct the
22 business of landscape irrigation, or yard sprinkler construction or
23 repairing in this state, and connect to any private or public, raw
24 or potable water supply system unless such person is the holder of
25 a valid certificate of registration as provided for by this
26 section. The board shall issue certificates of registration to
27 such persons over the age of 18 and of good moral character as

1 have, by a uniform, reasonable examination, shown themselves fit,
 2 competent, and qualified to engage in the business, trade, or
 3 calling of a landscape irrigator. A person holding a certificate
 4 of registration as a landscape irrigator is qualified and is not
 5 required to comply with other regulatory laws of this state or with
 6 rules of another regulatory agency for connecting a landscape
 7 irrigation system to a private, public, raw, or potable water
 8 supply water system, except that a regulatory agency of any
 9 political subdivision of the state may require landscape irrigators
 10 to comply with any reasonable inspection requirements and pay any
 11 reasonable inspection fees imposed by such political subdivision
 12 with respect to work performed by landscape irrigators within the
 13 jurisdiction of the political subdivision [~~An examination for~~
 14 ~~landscape irrigators shall be given at the same time and place and~~
 15 ~~in the same manner as an examination for landscape architects is~~
 16 ~~given under Subsection (a) of this section, and the fee for such~~
 17 ~~examination shall be \$50]."~~

18 Sec. 4. Sections 7, 7A, 9, 10, and 12, Chapter 457, Acts of
 19 the 61st Legislature, Regular Session, 1969, as amended (Article
 20 249c, Vernon's Texas Civil Statutes), are amended to read as
 21 follows:

22 "Section 7. CERTIFICATES OF REGISTRATION. All certificates
 23 of registration shall expire on the 31st day of August of each
 24 year, following their issuance or renewal and shall become invalid
 25 on that date unless renewed. It shall be the duty of the secretary
 26 of the board to notify every person registered under this Act of
 27 that date of expiration of his certificate and the amount of the

1 fee that shall be required for its renewal for one year; such
2 notice shall be mailed at least one month in advance of the date of
3 the expiration of said certificate. Renewal may be effected at
4 any time during the month of July or August of each year by payment
5 of the fee as prescribed and set by the board. The fee for a
6 landscape architect's certificate shall ~~[be] not exceed \$100, as~~
7 ~~set by the board [less than \$10 nor more than \$50].~~ The fee for a
8 landscape irrigator's certificate shall be not more than \$100.
9 Failure on the part of any registrant to renew his certificate
10 annually, and by not later than August 31st, as required above
11 shall not deprive such person of the right of renewal, but the fee
12 to be paid for the renewal of a certificate after August 31st shall
13 ~~be 50 percent larger than the fee paid for renewal of a certificate~~
14 ~~before August 31st [increased 10 percent for each month or fraction~~
15 ~~of a month that renewal payment is delayed];~~ and provided further,
16 that if such failure to renew shall continue for more than 60 days
17 ~~[one year]~~ after the date of expiration of the registration
18 certificate, the applicant must reapply for registration and must
19 qualify under Section 5 of this Act. ~~If the fee is not received~~
20 ~~within 60 days after August 31st, the license is suspended, and the~~
21 ~~licensee has 30 days to request a hearing before the board. After~~
22 ~~the hearing, the board shall review the suspension and shall~~
23 ~~determine whether permanent revocation is necessary.~~ All renewal
24 certificates shall carry the same registration number as the
25 original certificate.

26 "Section 7A. EXPIRATION DATES OF CERTIFICATES OF
27 REGISTRATION; PRORATION OF FEE. The board by rule may adopt a

1 system under which certificates of registration expire on various
2 dates during the year. Renewals may be made at any time during the
3 two months prior to the expiration date, and renewal fees paid
4 after the expiration date shall be 50 percent larger than the
5 renewal fee paid before the expiration date [~~increased 10 percent~~
6 ~~for each month or fraction of a month that renewal payment is~~
7 ~~delayed~~]. For the year in which the expiration date is changed,
8 registration fees payable on August 31 shall be prorated on a
9 monthly basis so that each registrant shall pay only that portion
10 of the registration fee which is allocable to the number of months
11 during which the registration is valid. On renewal of the
12 registration on the new expiration date, the total of the
13 registration fee is payable."

14 "Section 9. VIOLATIONS AND PENALTIES. After the effective
15 date of this Act any person who represents himself to be, or
16 practices as a landscape architect or irrigator in this state
17 without being registered or exempted in accordance with the
18 provisions of this Act, or any person presenting or attempting to
19 use as his own, the certificate of registration or the seal of
20 another, or any person who shall give any false or forged evidence
21 of any kind to the board or to any member thereof in obtaining or
22 assisting in attaining for another a certificate of registration,
23 or any person who shall violate any of the provisions of this Act,
24 shall be fined not less than \$100 nor more than \$500, or be
25 confined in jail for a period not to exceed three months, or both.
26 Each day of such violation shall be a separate offense.

27 "The attorney general or his assistants shall act as legal

1 Sec. 5. Chapter 457, Acts of the 61st Legislature, Regular
2 Session, 1969, as amended (Article 249c, Vernon's Texas Civil
3 Statutes), is amended by adding Section 9A to read as follows:

4 "Section 9A. INJUNCTION. A person practicing landscape
5 architecture or irrigation who is not licensed by the board under
6 this Act may be enjoined and restrained, on petition of the board,
7 by a district court from practicing landscape architecture or
8 irrigation."

9 Sec. 6. The importance of this legislation and the crowded
10 condition of the calendars in both houses create an emergency and
11 an imperative public necessity that the constitutional rule
12 requiring bills to be read on three several days in each house be
13 suspended, and this rule is hereby suspended, and that this Act
14 take effect and be in force from and after its passage, and it is
15 so enacted.

-END-

H. B. No. 2081

By G. Hill

ABILL TO BE ENTITLED

AN ACT

relating to the regulation and certification of landscape architects and landscape irrigators; amending Chapter 457, Acts of The 61st Legislature Regular Session, 1969, as amended (Article 249c, Vernon's Texas Civil Statutes); and declaring an emergency.

MAR 11 1977

1. Filed with the Chief Clerk.

MAR 17 1977

2. Read first time and ~~Referred~~ to Committee on State Affairs

MAY 11 1977

3. Reported ~~favorably~~ AS SUBSTITUTED (a ~~substitute~~) and sent to Printer at 7:30 : P M.
(time)

MAY 13 1977

4. Printed, distributed ~~and sent to the Committee on Calendars~~ at 8:00 A M.
(time)

MAY 13 1977

Sent To Committee On Calendars. 8:17 am

MAY 20 1977

5. Read second time (amended), passed to third reading (~~failed~~) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

6. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-record vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

7. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

MAY 20 1977

8. Read third time (~~amended~~); finally passed (~~failed~~) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

9. Caption ordered amended to conform to body of bill.

10. Motion to reconsider and table the vote by which H.B. _____ was finally passed prevailed (failed) by a (Non-record) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 20 1977

11. Ordered Engrossed at 10:40 A M.
(time)

MAY 20 1977

12. Engrossed.

MAY 20 1977

13. Returned to Chief Clerk at 1:14 P M.
(time)

MAY 20 1977

14. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 20 1977

15. Received from the House _____

MAY 20 1977

16. Read, referred to Committee on STATE AFFAIRS

MAY 23 1977 Rereferred To Economic Development

MAY 25 1977

17. Reported favorably _____

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

20. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nays.)

- _____ 21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.
- _____ 22. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)
- _____ 23. Caption ordered amended to conform to body of bill.
- _____ 24. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.
- _____ 25. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION: OTHER ACTION:

Secretary of the Senate

- _____ 26. Returned to the House.
- _____ 27. Received from the Senate (with amendments).
- _____ 28. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).
- _____ 29. Conference Committee Ordered.
- _____ 30. Conference Committee Report Adopted (Rejected) by a (Non-record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).
- _____ 31. Ordered Enrolled at _____ : _____ M.
(time)

1977 MAY 13 AM 8:01
HOUSE OF REPRESENTATIVES
1977 MAY 20 PM 1:14
HOUSE OF REPRESENTATIVES